IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL REVISION APPLICATION NO. 508 OF 2007

Satish Hariyanna Shetti ... Petitioner
(Orig. defendant)

Vs.

Sou. Laxmibai Pundalik Katkar ... Respondent
(Orig. plaintiff)

Ms. Anjali Helekar, Advocate, for the petitioner.

Mr. P.R.Arjunwadkar, Advocate, for the respondent.

CORAM: J.H.BHATIA,J.

DATE: 22nd November,2007.

P.C.

1. Heard learned Counsel for the parties.

2. This Revision Application is filed by the original defendant-tenant. The plaintiff filed the suit for eviction on three grounds i.e. (i) default in payment of rent, (ii) sub-letting of the premises by the tenant and (iii) bonafide requirement of the premises for opening a clinic for her daughter-in-law and grocery shop for her son. The trial Court dismissed the suit on all the three grounds and the plaintiff preferred Appeal No.387 of 1997 against dismissal of the suit. The

appellate Court agreed with the trial Court on first two grounds, but diferred on the reasonable and bonafide requirement of the plaintiff and found that the plaintiff had proved that the said premises are required bonafide for her son and for her daughter-in-law. Having given this finding, the appellate Court found that the trial Court has not framed the issue about the question of greater hardship and to that extent, the matter was remanded to the trial court. After the remand, the parties were heard again and the learned trial Court decreed the suit for eviction holding that greater hardship would be caused to the plaintiff if the decree is refused. Against that decree, the defendant preferred Regular Civil Appeal No.240 of 2005. The Appeal came to be dismissed. Hence, the defendant has preferred the present Revision Application.

3. The learned Counsel for the defendant-applicant has pointed out certain admissions of the landlady and her daughter-in-law, Dr. Nutan, to show that Dr. Nutan was serving as a medical officer at Wadgaon. However, it appears that Wadgaon is only at a distance of 25 kms. from Ichalkaranji where the suit property is situated. Even though Dr. Nutan is Government Medical Officer, she is entitled to have private practice also and she wanted to open her own clinic in the premises. However, she had to take some premises on rent from one Chavan

for opening her own clinic only because the suit premises are not available. It is also pointed out that the son of the landlady was running a grocery shop in the small premises admeausing 5’ x 7’ and he needed larger premises for his business. In such circumstances, I find that no fault can be found in the findings of the Courts below that plaintiff reasonably and bonafide requires the suit premises for the use of her son and daughter-in-law. By the aforesaid evidence, the plaintiff also pointed out that greater hardship would be caused to her if the decree is refused. The Courts below noted that defendant had never entered into witness box to depose about the hardship, if any, which may be caused to him. He had examined his power of attorney holder as a witness. The said witness had never carried on business of hotel in the suit premises on behalf of the defendant. Even after the matter was remanded to decide the issue of greater hardship, the defendant did not enter into witness box. In such circumstances, the Courts below held that greater hardship would be caused to the plaintiff if the decree is refused. I find no illegality, irregularity or perversity in the aforesaid finding. There is no substance in the Revision Application.

In the result, the Revision Application stands dismissed.

(J.H.BHATIA,J.)